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Latest updates from our European experts
European Pensions Agenda

November 2015

1 EU – No more 'safe harbour' for EU-US data transfers – The Court of Justice of the European Union has ruled that the 'Safe Harbour' regime relied on by many organisations to ensure the adequate protection of data transferred from the EU to the US is invalid. Pension plans and employers that transfer, process or store personal data in the US or that share such data with third parties (including other group companies) that do this, need to review their contractual arrangements and, where necessary, put in place alternative safeguards immediately.

Action: Review data protection safeguards and contractual arrangements where data may be transferred, processed or stored in the US.

2 EU – MEPs report on new IORP Directive due shortly – The new IORP Directive is still working its way through the European Parliament. Brian Hayes MEP's draft report for the Economic and Monetary Affairs (ECON) Committee contains some helpful amendments but some issues with the draft Directive remain. The ECON Committee's final report is due to be issued in December with 'trilogue' negotiations between the Commission, the Parliament and the Council to determine the final text expected early next year.

Action: Lobby Rapporteurs to ensure key issues are addressed.

3 Austria – New 'Partial Pension' system – A new, so-called 'Partial Pension', will be introduced from 1 January 2016 in an attempt to increase the number of older workers. From age 62, an employee will be able to reduce their working hours by 40%-60%, but their salary will only be reduced by half as much as the reduction in working hours. The difference will be reimbursed to their employer by the State. The Government also plans to introduce a 'bonus-malus system' under which employers with less than an industry-specific number of employees over age 55 will be fined, while companies that exceed this number will be rewarded.

Action: Consider the opportunities presented by the new 'Partial Pension' model and prepare for the introduction of the 'bonus-malus system'.

4 Belgium – Guaranteed investment returns for DC plans may be reduced – It is not possible to have a pure DC plan in Belgium as the law provides a guaranteed return of 3.25% on employer contributions and 3.75% on employee contributions. In light of the current economic climate the ten most important social partners in Belgium have decided in principle that the guaranteed return should be reduced to between 1.75% and 3.75%. The Government must now decide whether to implement this.

Action: Monitor developments and consider the impact on your DC plans.

5 France – New restrictions on DB pensions for corporate officers – New requirements, known as the 'Loi Macron' , now apply to defined benefit (DB) pensions granted to corporate officers of listed companies. These requirements include pension payments being subject to performance conditions and restrictions on the level of benefits, the purchasing of additional years and granting benefits on appointment. These provisions apply retrospectively with effect from 1 July 2015.

Action: Assess impact of new restrictions and decide response.

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6 Germany – Revision of the German Company Pensions Act – The German Government has approved a draft law to implement the EU Mobility Directive. The draft law, which is due to enter into force on 1 January 2018, includes:

- a reduction of the vesting period for pension benefits from five years to three years
- increases to vested pension benefits with the aim of achieving equal treatment of the entitlements of current and former workers
- a requirement for employee consent for severance payments that cover minimum entitlements.

Action: Employers and pension plans need to be prepared for these changes.

7 Ireland – Consultation on professional qualifications for DC trustees – The Pensions Authority has recently consulted on plans to introduce professional qualifications and ongoing training requirements for trustees of DC pension plans. This is part of a continued drive to raise the governance standards of Irish DC plans. The consultation closed on 1 October 2015 and the Authority's response is now awaited.

Action: Monitor response and prepare to take necessary actions.

8 Italy – New bill will allow older workers to switch to part-time working – A new bill, which is expected to come into force from January 2016, will enable full-time employees aged 63 years and seven months or older to convert to part-time work without affecting their future pensions. Any such change will require employer agreement.

Action: Monitor developments and consider the impact on your business and your workforce.

9 The Netherlands – Employer pension contributions now expected to increase – The Dutch Central Bank has recently reduced the 'ultimate forward rate' that pension funds must use as the discount rate when calculating their liabilities. This has resulted in a worsening of coverage ratios by 3.5% on average. Therefore, employers should expect higher annual contribution rates for next year. The increase is expected to more than offset the anticipated reduction in contributions resulting from the €100,000 pensionable salary cap on pension accrual introduced in January.

Action: Be prepared for higher than expected pension contributions next year.

10 UK – Prepare for tax changes – The Government is currently consulting on reforming the system of pensions tax relief in the UK. A new approach could be announced before the end of the year and this could have significant implications for pension plans and sponsors. Pension plans also need to prepare for the new tapered annual allowance which will see the annual allowance reduced to £10,000 for high earners.

Action: Assess impact of tapered annual allowance and decide response. Be prepared for potential further changes to pensions tax relief.

For more details on these or any other issues speak to your usual Eversheds' adviser or email Francois Barker, Head of Pensions, at **francoisbarker@eversheds.com**.

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